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VIA ELECTRONIC MAIL: sjrdotmdl@rb5s.swrcb.ca.gov

Mr. Mark Gowdy
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, California 95670-6714

Re: Public Review Draft Report for the Control Program for Factors Contributing to the Dissolved Oxygen Impairment in the Stockton Deep Water Ship Channel

Dear Mr. Gowdy:

The following comments are submitted on behalf of Stockton East Water District (SEWD). SEWD receives a portion of its water supply from the Stanislaus River and has been monitoring the stakeholder process for the low-dissolved oxygen problem in the Deep Water Ship Channel (DWSC).

Staff has assigned one-third of the responsibility for meeting a Dissolved Oxygen TMDL on activities that impact flow in the channel. To implement this assignment, staff is recommending that the State Water Resource Control Board:

Amend water right permits for existing activities that reduce flow through the DWSC to require that the associated impacts on oxygen demand loading capacity be evaluated and mitigated to less than the amount apportioned to flow impacts in the Control Program for Factors Contributing to the Dissolved Oxygen Impairment in the DWSC.

Staff and members of the Board seemed eager to use increased flow in the DWSC as a relatively fast and inexpensive method to improve the DO problem. SEWD supports this concept to the extent it involves re-circulation of flows utilizing the State and Federal Delta pumping facilities in combination with the operation of the South Delta barriers. However, SEWD adamantly opposes the use of flow from upstream reservoirs that have little to no impact on the DO problem. The current proposed language is too vague to preclude this result.

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We believe that the amendment of water right permits on the upstream tributaries to assist in resolving this problem should be done as a last resort. Any conditions added to those permits should be limited to resolving only the proportion of the problem associated with the water right permit at issue. Further, these amendments must occur simultaneously to all water right permits that impact the DO problem, rather than on a piece-meal basis.

In 1994, the Central Valley Region adopted a Basin Plan for the Sacramento River and San Joaquin River Basins. This Basin Plan emphasizes that flow should be used as a last resort to achieve water quality objectives, and specifically states:

...objectives are to be achieved primarily through the adoption of waste discharge requirements (including permits) and cleanup and abatement orders.
[AR/10/2364/20]

In order to comply with the Regional Board's own governing documents, the Regional Board must implement remedies to the impact of the existence and maintenance of the DWSP and limit oxygen demand loads into the River before flow requirements can be imposed upon water right holders. If implemented as such a third priority, the current suggested language quoted above should be amended. We suggest the following:

Using a simultaneous process, the State Board should amend ALL water right permits for existing activities that reduce flow through the DWSC, during time periods when flow is required to prevent dissolved oxygen impairment, to require that the associated impacts of each permit on oxygen demand loading capacity be evaluated and proportionately mitigated so that the mitigation allocated to ALL permit holders equates to the amount apportioned to flow impacts in the Control Program for Factors Contributing to the Dissolved Oxygen Impairment in the DWSC.

SEWD continues to monitor and support the stakeholder process and appreciates this opportunity to comment on the proposed amendments to the Basin Plan.

Very truly yours,

JENNIFER L. SPALETTA
Attorney-at-Law

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cc: Mr. Kevin Kauffman